

## Message Text

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44

ACTION EB-07

INFO OCT-01 EUR-12 EA-06 IO-10 ISO-00 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05

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FM USMISSION GENEVA

TO SECSTATE WASHDC 870

INFO AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY BUCHAREST

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY HELSINKI

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AMEMBASSY PARIS

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AMEMBASSY ROME

AMEMBASSY SEOUL

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMEMBASSY VIENNA

AMEMBASSY WARSAW

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E.O. 11652: N/A

TAGS: GATT, ETRD, EEC, EFTA

SUBJECT: GATT ARTICLE XXII CONSULTATIONS REGARDING EC/EFTA  
ORIGIN RULES

BEGIN SUMMARY. THIRD MEETING OF FATT ARTICLE XXII:1 CONSULTATIONS ON EC/EFTA ORIGIN RULES HELD FEB 18. US RESPONDED IN MORE DETAIL TO ARGUMENTS PUT FORWARD BY PARTIES TO AGREEMENTS AT LAST MEETING AND PRESENTED PAPER (DISTRIBUTION IN ADVANCE) DISCUSSING COMMERCIAL IMPLICATIONS OF RULES AND DESCRIBING 50 "ILLUSTRATIVE" CASES OF INJURY TO US TRADE. US REP REPEATED REQUEST THAT PARTIES JUSTIFY RULES IN TERMS OF TRADE DEFLECTION. CANADA PRESENTED SHORT PAPER ON DAMAGE TO CANADIAN TRADE, MENTIONING A NUMBER OF PRODUCTS AND DESCRIBING THREE "ILLUSTRATIVE" INJURY CASES IN SOME DETAIL. JAPAN AND ROMANIA MADE SHORT STATEMENTS EXPRESSING CONCERN BUT CONCEDING THEY HAD NO CASES YET. PARTIES TO AGREEMENTS DEFENDED RULES AND EXPANDED SOMEWHAT ON RATIONALE. EC REP EVIDENTLY BECOMING NERVOUS ABOUT FLOW OF US PAPERS PRESENTING NEGATIVE PICTURE OF AGREEMENTS WITH NO BALANCING PAPERS ON POSITIVE ASPECTS. END SUMMARY.

1. US REP (MATTHEISEN) MADE OPENING STATEMENT ALONG LINES OF POSITION PAPER (A) DEFENDING RELEVANCE OF PAPER SUBMITTED BY US AT FIRST MEETING WHICH COMPARED OLD EFTA WITH NEW EC/EFTA RULES (B) THANKING PARTIES FOR CLARIFICATION OF CERTAIN TECHNICAL ASPECTS OF CURRENT RULES (C) SUGGESTING THAT GATT/LEGAL ISSUES BE DISCUSSED AT NEXT MEETING AND (D) INDICATING WILLINGNESS TO HAVE GATT SECRETARIAT UNDERTAKE STUDY OF ORS IN FORCE IN ALL CPS ONLY IF PARTIES THOUGHT SUCH STUDY WOULD BE USEFUL TO THEM. (PARTIES READILY AGREED TO DROP SUGGESTION.) US REP THEN EXPLAINED PURPOSE OF

THIRD US PAPER WHICH DEALS WITH ISSUE OF TRADE DEFLECTION IN FREE TRADE AREAS AND DESCRIBES 50 "ILLUSTRATIVE" CASES OF INJURY TO US TRADE. HE EMPHASIZED THAT CASES WERE PRESENTED SIMPLY TO SHOW REAL PROBLEM EXISTED. NOTING THAT PARTIES HAD SAID LIMITED OFFICIAL USE

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EC/EFTA RULES WERE INTRODUCED "ESSENTIALLY TO PREVENT TRADE DEFLECTION" HE REPEATED EARLIER REQUESTS FOR JUSTIFICATION OF HIGHLY DIFFERENTIATED, RESTRICTIVE SYSTEM IN TERMS OF TRADE DEFLECTION POTENTIAL.

2. EFTA REP (COLLIANDER) PLEADED INSUFFICIENT TIME (3 WEEKS) TO PREPARE REPLY TO THIRD US PAPER AND CONCENTRATED INSTEAD ON SECOND US PAPER, SUBMITTED LAST

JULY, WHICH COMPARED ORIGINAL EFTA WITH EC/EFTA TARIFF DIFFERENTIALS. ASSERTING THAT "HYPOTHESIS UNDERLYING" US PAPER APPEARED TO BE THAT ORIGIN RULES IN FTAS SHOULD BE SIMPLE FUNCTION OF TARIFF DIFFERENTIALS, EFTA REP ARGUED THAT THOROUGHGOING APPLICATION SUCH PRINCIPLE WOULD RESULT IN COMPLEX SYSTEM IMPOSSIBLE TO ADMINISTER. MOREOVER, EACH FTA MEMBER RETAINS RIGHT TO CHANGE DUTIES IN ITS EXTERNAL TARIFF SO SCHEME WOULD HAVE TO BE CONSTANTLY MODIFIED. IN ADDITION, EVEN IF TARIFF RATES WERE THE SAME, OR WOULD BE NEEDED TO DEFINE RANGE OF GOODS IN RESPECT OF WHICH PROVISIONS OF FTA WOULD APPLY, AND "THESE PROVISIONS CONCERN RIGHTS AND OBLIGATIONS NOT ONLY RELATED TO DUTIES BUT ALSO TO ALL OTHER MEASURES RELATING TO COMMERCE, COVERED BY FREE TRADE AGREEMENT." FINALLY, ORS HELP IN ENSURING AN EQUITABLE DISTRIBUTION OF CUSTOMS REVENUE.

3. US RESPONDED THAT PAPER DID NOT SUGGEST THOROUGHGOING APPLICATION OF SINGLE FUNCTION THESIS. WE SIMPLY NOTED PARTIES' ASSERTION THAT ORS WERE INTRODUCED IN EC/EFTA AGREEMENT "ESSENTIALLY TO PREVENT TRADE DEFLECTION". WE OBSERVED THAT TARIFF DIFFERENTIALS IN THE ORIGINAL EFTA, WHERE LIBERAL ORS PREVAILED, WERE GREATER THAN TARIFF DIFFERENTIALS IN EC/EFTA WHERE STRICT ORS PREVAILED. WE ASKED PARTIES WHY IT WAS THAT STRICTER ORS HAD EMERGED IN SITUATION WHERE POTENTIAL FOR TRADE DEFLECTION HAD DIMINISHED. WITH REGARD TO TARIFF AUTONOMY IN FTAS, US REP NOTED THAT MEMBERS OF ORIGINAL EFTA, WHERE LIBERAL ORS PREVAILED, HAD NO DIFFICULTY MAINTAINING SUCH AUTONOMY AND DID NOT HAVE TO MODIFY ORS WHEN TARIFFS CHANGED. WITH REGARD TO ORS FOR PURPOSES OTHER THAN TARIFF DIFFERENTIALS, US REP NOTED THAT IN EC WHERE MEMBER COUNTRY LIMITED OFFICIAL USE

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TARIFFS ARE IDENTICAL NO RESTRICTIVE ORS ARE APPLIED (ALTHOUGH THEY MAY BE USED FOR QRS WHERE ONE MEMBER APPLIES QUOTAS AND ANOTHER DOES NOT). WITH REGARD TO CUSTOMS REVENUE, US REP ARGUED IT WAS UNREASONABLE TO ADJUST IMPORTS FROM THIRD COUNTRIES INTO INDIVIDUAL MEMBERS OF AN FTA IN ORDER TO PROVIDE A DISTRIBUTION OF SUCH REVENUE WHICH THE PARTIES CONSIDERED EQUITABLE.

4. EC REP (LUYTEN) MADE SEVERAL BRIEF INTERVENTIONS. MAIN POINTS WERE: US FOCUSING ONLY ON DISADVANTAGES OF ORS FOR US TRADE AND HAS FAILED TO CONSIDER BENEFITS. EC WILL JUSTIFY ORS IN TERMS OF TRADE DEFLECTION WHEN US JUSTIFIES ITS ORS IN PHILIPPINE AGREEMENT, AUTO AGREEMENT, AND GSP IN TERMS OF TRADE DEFLECTION.

5. CANADIAN REP (WEISSER) STATED THAT CANADA WAS BEING ADVERSELY AFFECTED BY STRICT ORS AND SUBMITTED PAPER MENTIONING NUMBER OF PRODUCTS BUT CONCENTRATING ON THREE SPECIFIC, "ILLUSTRATIVE" CASES. CALLED ON PARTIES TO CONSIDER WHETHER STRICT RULES WERE REALLY NECESSARY.

6. JAPANESE AND ROMANIAN REPS MADE VERY GRIEF STATEMENTS EXPRESSING CONCERN BUT CONCEDED THEY HAD NO INJURY CASES YET. JAPANESE REP, IN SUBSEQUENT PRIVATE CONVERSATION, THOUGHT TOKYO MIGHT FIND SOME WHEN THEY READ US PAPER DESCRIBING CASES ON PRODUCTS ALSO EXPORTED BY JAPAN.

7. GROUP TENTATIVELY AGREED TO MEET AGAIN IN MAY. US INDICATED IT WILL WISH DISCUSS GATT/LEGAL ISSUES AT THAT TIME.

8. AFTER MEETING, EC REP TELEPHONED US REP TO EXPRESS CONCERN BECAUSE PAPERS PRESENTED BY USDEL CONCENTRATED ONLY ON NEGATIVE ASPECTS OF EC/EFTA AGREEMENTS. MOREOVER, LATEST PAPER (FIRST PAGE) NOTED THAT SINCE AGREEMENTS BEING IMPLEMENTED IN STAGES, THERE WAS OPPORTUNITY TO RESOLVE PROBLEM NOW BEFORE IT DEVELOPED INTO MAJOR COMMERCIAL DISPUTE. THIS, HE CHARACTERIZED AS "KISSINGER-LIKE THREAT".  
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HE ARGUED US REP HAD RESPONSIBILITY TO EXPLAIN POSITIVE ASPECTS OF AGREEMENTS IN WASHINGTON. US REP SAID NO THREAT INTENDED BY US PAPER. SUGGESTED BEST WAY TO BALANCE PRESENTATION WOULD BE FOR EC TO BEGIN SUBMITTING ITS OWN PAPERS AS WE HAVE URGED THEM TO DO FROM OUTSET. DALE

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## Message Attributes

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